

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

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Liliana Carolina Yanes, *individually and on behalf of all others*  
*similarly situated,*

Case No. 23-cv-09454-JMA-AYS

**ANSWER TO COMPLAINT**

Plaintiffs,

-against-

Nilkhant 2 Car Wash, LLC d/b/a Bethpage Car Wash,  
Rakeshbhai Patel, Darpan Patel and Ronak Patel,

Defendants.

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Defendants, by their attorney, IRA LEVINE, ESQ., as and for their answer to the  
Complaint:

**WITH RESPECT TO NATURE OF THE CLAIM**

1. Deny the allegations contained in ¶ 1 of the Complaint.

**WITH RESPECT TO JURISDICTION AND VENUE**

2. Neither admit nor deny the allegations contained in ¶ 2 of the Complaint as same does not assert any facts which require a response. To the extent that a response is required, Defendants deny the allegations contained in ¶ 2 of the Complaint.

3. Neither admit nor deny the allegations contained in ¶ 3 of the Complaint as same does not assert any facts which require a response. To the extent that a response is required, Defendants deny the allegations contained in ¶ 3 of the Complaint.

4. Neither admit nor deny the allegations contained in ¶ 4 of the Complaint as same does not assert any facts which require a response. To the extent that a response is required, Defendants deny the allegations contained in ¶ 4 of the Complaint.

**WITH RESPECT TO PARTIES**

5. Deny knowledge and information sufficient to form a belief with respect to the allegations contained in ¶ 5 of the Complaint.

6. Deny the allegations contained in ¶ 6 of the Complaint.

7. Admit the allegations contained in ¶ 7 of the Complaint.

8. Admit the allegations contained in ¶ 8 of the Complaint.

9. Admit the allegations contained in ¶ 9 of the Complaint.

10. Admit the allegations contained in ¶ 10 of the Complaint.

11. Deny knowledge and information sufficient to form a belief with respect to the allegations contained in ¶ 11 of the Complaint.

12. Deny knowledge and information sufficient to form a belief with respect to the allegations contained in ¶ 12 of the Complaint.

13. Deny the allegations contained in ¶ 13 of the Complaint.

14. Deny the allegations contained in ¶ 14 of the Complaint.

15. Deny the allegations contained in ¶ 15 of the Complaint.

16. Deny the allegations contained in ¶ 16 of the Complaint.

17. Deny the allegations contained in ¶ 17 of the Complaint.

18. Deny the allegations contained in ¶ 18 of the Complaint.

19. Deny the allegations contained in ¶ 19 of the Complaint.

20. Deny the allegations contained in ¶ 20 of the Complaint.

21. Deny the allegations contained in ¶ 21 of the Complaint.

22. Deny the allegations contained in ¶ 22 of the Complaint.

23. Deny the allegations contained in ¶ 23 of the Complaint.

24. Deny the allegations contained in ¶ 24 of the Complaint.
25. Deny the allegations contained in ¶ 25 of the Complaint.
26. Deny the allegations contained in ¶ 26 of the Complaint.
27. Deny the allegations contained in ¶ 27 of the Complaint.
28. Deny the allegations contained in ¶ 28 of the Complaint.
29. Deny the allegations contained in ¶ 29 of the Complaint.
30. Deny the allegations contained in ¶ 30 of the Complaint.
31. Deny the allegations contained in ¶ 31 of the Complaint.
32. Deny the allegations contained in ¶ 32 of the Complaint, except had been employed  
at the car wash.

33. Deny the allegations contained in ¶ 33 of the Complaint.
34. Deny the allegations contained in ¶ 34 of the Complaint.
35. Deny the allegations contained in ¶ 35 of the Complaint.
36. Deny the allegations contained in ¶ 36 of the Complaint.
37. Deny the allegations contained in ¶ 37 of the Complaint.
38. Deny the allegations contained in ¶ 38 of the Complaint.
39. Deny the allegations contained in ¶ 39 of the Complaint.
40. Deny the allegations contained in ¶ 40 of the Complaint.
41. Deny the allegations contained in ¶ 41 of the Complaint.
42. Deny the allegations contained in ¶ 42 of the Complaint.
43. Deny the allegations contained in ¶ 43 of the Complaint.
44. Deny the allegations contained in ¶ 44 of the Complaint.
45. Deny the allegations contained in ¶ 45 of the Complaint.

- 46. Deny the allegations contained in ¶ 46 of the Complaint.
- 47. Deny the allegations contained in ¶ 47 of the Complaint.
- 48. Deny the allegations contained in ¶ 48 of the Complaint.
- 49. Deny the allegations contained in ¶ 49 of the Complaint.
- 50. Deny the allegations contained in ¶ 50 of the Complaint.
- 51. Deny the allegations contained in ¶ 51 of the Complaint.
- 52. Deny the allegations contained in ¶ 52 of the Complaint.
- 53. Deny the allegations contained in ¶ 53 of the Complaint.
- 54. Deny the allegations contained in ¶ 54 of the Complaint.
- 55. Deny the allegations contained in ¶ 55 of the Complaint.
- 56. Deny the allegations contained in ¶ 56 of the Complaint.

**WITH RESPECT TO THE FIRST CAUSE OF ACTION**

57. Defendants repeat, reallege and incorporate their responses as set forth in ¶¶ 1-56 of the Answer as if fully set forth herein.

- 58. Deny the allegations contained in ¶ 58 of the Complaint.
- 59. Deny the allegations contained in ¶ 59 of the Complaint.
- 60. Deny the allegations contained in ¶ 60 of the Complaint.
- 61. Deny the allegations contained in ¶ 61 of the Complaint.
- 62. Deny the allegations contained in ¶ 62 of the Complaint.
- 63. Deny the allegations contained in ¶ 63 of the Complaint.

**WITH RESPECT TO THE SECOND CAUSE OF ACTION**

64. Defendants repeat, reallege and incorporate their responses as set forth in ¶¶ 1-63 of the Answer as if fully set forth herein.

65. Deny the allegations contained in ¶ 65 of the Complaint.

66. Deny the allegations contained in ¶ 66 of the Complaint.

67. Deny the allegations contained in ¶ 67 of the Complaint.

68. Deny the allegations contained in ¶ 68 of the Complaint.

**WITH RESPECT TO THE THIRD CAUSE OF ACTION**

69. Defendants repeat, reallege and incorporate their responses as set forth in ¶¶ 1-68 of the Answer as if fully set forth herein.

70. Neither admit nor deny the allegations contained in ¶ 70 of the Complaint and beg leave to refer to the statute quoted for the rights and obligations of the parties thereto. To the extent that an answer is required, defendants deny knowledge and information sufficient to form a belief with respect to the allegations contained in 70 of the Complaint.

71. Deny the allegations contained in ¶ 71 of the Complaint.

72. Deny the allegations contained in ¶ 72 of the Complaint.

73. Deny the allegations contained in ¶ 73 of the Complaint.

**WITH RESPECT TO THE FOURTH CAUSE OF ACTION**

74. Defendants repeat, reallege and incorporate their responses as set forth in ¶¶ 1-73 of the Answer as if fully set forth herein.

75. Neither admit nor deny the allegations contained in ¶ 75 of the Complaint and beg leave to refer to the statute quoted for the rights and obligations of the parties thereto. To the extent that an answer is required, defendants deny knowledge and information sufficient to form a belief with respect to the allegations contained in 75 of the Complaint.

76. Deny the allegations contained in ¶ 76 of the Complaint.

77. Deny the allegations contained in ¶ 77 of the Complaint.

78. Deny the allegations contained in ¶ 78 of the Complaint.

79. Deny the allegations contained in ¶ 79 of the Complaint.

**WITH RESPECT TO THE FIFTH CAUSE OF ACTION**

80. Defendants repeat, reallege and incorporate their responses as set forth in ¶¶ 1-79 of the Answer as if fully set forth herein.

81. Neither admit nor deny the allegations contained in ¶ 81 of the Complaint and beg leave to refer to the statute quoted for the rights and obligations of the parties thereto. To the extent that an answer is required, defendants deny knowledge and information sufficient to form a belief with respect to the allegations contained in 81 of the Complaint.

82. Deny the allegations contained in ¶ 82 of the Complaint.

83. Deny the allegations contained in ¶ 83 of the Complaint.

84. Deny the allegations contained in ¶ 84 of the Complaint.

85. Deny the allegations contained in ¶ 85 of the Complaint.

**WITH RESPECT TO THE SIXTH CAUSE OF ACTION**

86. Defendants repeat, reallege and incorporate their responses as set forth in ¶¶ 1-85 of the Answer as if fully set forth herein.

87. Deny the allegations contained in ¶ 87 of the Complaint.

88. Deny the allegations contained in ¶ 88 of the Complaint.

**WITH RESPECT TO THE SEVENTH CAUSE OF ACTION**

89. Defendants repeat, reallege and incorporate their responses as set forth in ¶¶ 1-88 of the Answer as if fully set forth herein.

90. Deny the allegations contained in ¶ 90 of the Complaint.

91. Deny the allegations contained in ¶ 91 of the Complaint.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

92. Plaintiff's claims are barred, in whole or in part, by the applicable statutes of limitation.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

93. This action is barred by the doctrines of waiver and estoppel.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

94. Plaintiff cannot recover liquidated damages under FLSA or the New York State Labor Law because Defendants acted in good faith and believed that their conduct did not violate the FLSA or the New York State Labor Law.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE**

95. The acts and omissions of Defendants, if any, were made in good faith and based upon reasonable grounds that such acts or omissions did not violate and were in conformity with all applicable statutes, regulations, orders, rulings, approvals or interpretations of same as promulgated by The United States Department of Labor, The New York State Department of Labor, and all other applicable departments and agencies having jurisdiction therefor.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE**

96. The complaint is barred, in whole or in part, by the doctrine of payment.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE**

97. The complaint is barred, in whole or in part, by virtue of the doctrine of release.

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE**

98. Defendants are entitled to a set-off with respect to the monies paid for any hours that Plaintiff was not actually working.

**AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE**

99. The causes of action herein have been waived and/or barred by reason of Plaintiff's failure to give proper and timely notice to Defendants of her claims.

**AS AND FOR A NINTH AFFIRMATIVE DEFENSE**

100. The complaint is barred, in whole or in part, by virtue of the doctrine of collateral estoppel.

**AS AND FOR A TENTH AFFIRMATIVE DEFENSE**

101. If Defendants are found to have failed to pay the appropriate compensation, any such violations are *de minimis*.

**AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE**

102. This Court does not have, should decline to exercise, supplemental jurisdiction over some or all of the state law claims asserted by Plaintiff.

**AS AND FOR A TWELFTH AFFIRMATIVE DEFENSE**

103. Plaintiff's claims are barred because some or all of Defendants were not Plaintiff's "employer" as such term may be defined under applicable federal or state laws.

**AS AND FOR A THIRTEENTH AFFIRMATIVE DEFENSE**

104. Liquidated damages are not fully available for both FLSA claims and NY State Labor Law claims.

**AS AND FOR A FOURTEENTH AFFIRMATIVE DEFENSE**

105. Plaintiff cannot prevail in the absence of any documentary evidence to corroborate allegations of overtime or the other allegations herein.

**AS AND FOR A FOURTEENTH AFFIRMATIVE DEFENSE**

106. Plaintiff's claims are barred by documentary evidence.



WHEREFORE, Defendants demand judgment:

- a. Dismissing the Complaint against these Defendants;
- b. Awarding these Defendants the costs and disbursements of this action.

Dated: Massapequa, New York  
March 22, 2024



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